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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,762	08/19/2003	Satoshi Muramatsu	241749US3CONT	3011
22850	7590	01/15/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			GLEITZ, RYAN M	
			ART UNIT	PAPER NUMBER
			2852	
DATE MAILED: 01/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p>Application No.</p> <p align="center">10/642,762</p>	<p>Applicant(s)</p> <p align="center">MURAMATSU ET AL.</p>	
	<p>Examiner</p> <p align="center">Ryan Gleitz</p>	<p>Art Unit</p> <p align="center">2852</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>20030819</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 5 and 3 are objected to because of the following informalities: "said nozzle" (Claim 3, line 3 and claim 5, line 12) lacks antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato et al. (USPN 4,937,625).

Kato al. disclose a developer container (3) configured to be removably mounted to a body (1) of an image forming apparatus, the developer container comprising: a developer outlet (20; col. 3, line 56), formed in a side wall of the developer container (3); a cap (21; col. 3, line 58), which reads on a shutter means for selectively opening or closing the developer outlet (20). Figures 5A and 5B illustrate the shutter means (21) opening the developer outlet (20) when the developer container (3) is mounted to the body (1) or closing the developer outlet (20) when the developer container (3) is dismounted from the body (1).

Regarding claim 2, a guide member (23; col. 4, lines 1-2), which reads on a nozzle mounted on the body (1), is removed from the developer outlet in a substantially horizontal direction when the developer container (3) is dismounted from the body (1).

Claims 1, 3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasahara et al. (JP 2000-227706).

Kasahara et al. disclose a developer container (20) configured to be removably mounted to a body of an image forming apparatus, the developer container comprising: a toner discharge aperture (46, abstract, line 11), which reads on a developer outlet, formed in a side wall of the developer container (20); and a seal valve (21, abstract, line 9), which reads on a shutter means for selectively opening or closing the developer outlet (46). By a one-touch operation the toner container is dropped into the set part of the main body of the image forming device to open the seal valve, which reads on the shutter means (21) opens the developer outlet when the developer container (10) is mounted to the body or closes the developer outlet (3) when the developer container (10) is dismounted from the body.

Regarding claim 3, the shutter means (21) comprises a seal member formed foam sponge ([0019], line 8) and closing the developer outlet (3), the shutter means (21) being formed with a slit (abstract, line 9) via which a nozzle (45, abstract, line 14) is capable of penetrating into the developer container (20).

Regarding claim 8, an air pump (30, [0022], line 11) is an air feeding means for feeding air under pressure into the developer container (20). A toner will be supplied to a developer through a toner migration tube (16) by a discharge pressure of air ([0025], lines 7-10), which

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reads on a substantially hermetically sealed passage extending from the developer container to a position to which the developer should be replenished.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagasaki et al. (USPN 5,835,822).

Nagasaki et al. disclose a developer container configured to be removably mounted to a body of an image forming apparatus, the developer container comprising: a developer outlet, opening (266; col. 17, line 3; fig. 36A), formed in a side wall of the developer container (44; col. 16, line 58); and an outer cover (263; col. 16, line 60), which reads on shutter means for selectively opening or closing the developer outlet (266).

An opening of an outer cover is not aligned with an opening of an inner cover when the toner is not yet used (Col. 16, lines 58-62), and when the inner cover is made to rotate, the openings are aligned with each other to allow toner to flow out through the openings (Col. 16, lines 63-66). This reads on the shutter means (263) opens the developer outlet (266) when the developer container is mounted to the body or closes the developer outlet (266) when the developer container is dismounted from the body.

Regarding claim 4, an external shutter (263) positioned outside the developer outlet (266) and movable between a closing position for closing the developer outlet (266) and an opening position for opening the developer outlet (266). The outer cover is always biased by a spring (not shown) to occupy a position wherein the opening (264) is not aligned with the opening (266) of the inner cover (Col. 17, lines 1-3), which reads on a biasing member constantly biasing the external shutter toward the closing position; wherein when the developer container is mounted to

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outlet and movable between a closing position the body, the external shutter is moved from the closing position to the opening position against an action of the biasing member.

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 6 and 7 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 and 2 of prior U.S. Patent No. 6,628,915. This is a double patenting rejection.

### ***Allowable Subject Matter***

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Other Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Terasawa et al. (JP 2001-100506) disclose a nozzle a toner container with an elastic opening/closing member.

Baxendell et al. (USPN 6,169,864) disclose a toner container including a movably mounted sealing member biased closed by a spring.

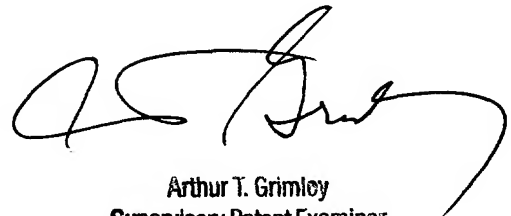
***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (703) 305-7388. The examiner can normally be reached on Monday-Friday between 8:00AM and 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (703) 308-1373. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
rg



Arthur T. Grimley  
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